

REMARKS/ARGUMENTS

Claims 20, 23-25 and 38-63 are pending. Claims 20, 23, 24, 25, 38, 40, 42, 43, 52, 53, 55, 57, 58, 60, 62 and 63 have been amended.

Claims 20, 23-25 and 38 stand objected to for not positively reciting the amended subject matter. Applicants have amended the claims to more positively recite the method performed by the online network-connected computer system.

Claim 20 stands rejected under 35 USC 103(a) as being unpatentable over Churchill, U.S. Patent No. 7,461,022 in view of Gupta, U.S. Patent No. 7,130,815. Claim 23 stands rejected under 35 USC 103(a) as being unpatentable over Churchill in view of Gupta and Leavitt, U.S. Patent Publication No. 2003/0135425. Claim 24 stands rejected under 35 USC 103(a) as being unpatentable over Churchill, in view of Grove, U.S. Patent Publication No. 2002/0188551, Elias, U.S. Patent Publication No. 2001/0034694 and Gupta. Claim 25, 39-43 and 54-58 stand rejected under 35 USC 103(a) as being unpatentable over Churchill as applied to claim 23, and further in view of Fujiwara, U.S. Patent Publication no. 2001/0027433, and Gupta. Claim 38 stands rejected under 35 USC 103(a) as being unpatentable over Churchill in view of Gupta and Official Notice. Claims 44-48 stand rejected under 35 USC 103(a) as being unpatentable over Churchill in view of Gupta, Leavitt and Fujiwara. Claims 49-53 stand rejected under 35 USC 103(a) as being unpatentable over Churchill in view of Grove, Elias, Gupta and Fujiwara. Claims 59-63 stand rejected under 35 USC 103(a) as being unpatentable over Churchill, in view of Gupta, Official Notice and Fujiwara. These rejections are respectfully traversed.

In each of the above-identified rejections, the Examiner relies on Gupta for teaching the feature of “allowing a seller to issue a direct offer to sell to the user with the highest bid if the highest bid is less than a reserve price, and allowing the seller to issue offers to sell to any

bidders after a listing expiration.” Applicants respectfully submit that Gupta fails to teach or suggest that which the Examiner asserts.

Gupta relates to reverse-type auctions. Gupta distinguishes itself from the EBay style of auction in the background section of the patent and is actually directed to a type of auction where sellers bid to a buyer to sell their goods to the buyer. Gupta discloses that sellers submit offered prices at which they are willing to sell a product and then may revise their offers as the price drops. Once the auction ends, the buyer receives a list of the best offers from the various sellers. Gupta discloses the concept of a reserve price, which is a price which is considered acceptable to the buyer for a particular product. If one of the seller/bidders offers the product below the reserve price, the buyer is then committed to purchasing the product from that seller. Gupta also discloses that if the predetermined time period for the auction expires and no offer is below the reserve price, the user may accept one of the received offers.

As amended herein, the independent claims recite “providing for a seller to issue a direct offer to sell to the user with the highest bid when the highest bid is less than a reserve price, and providing for the seller to issue offers to sell to any bidders after a listing expiration.” In contrast, Gupta teaches that the bidding party is the seller. It is unreasonable to assert that Gupta’s seller can issue a direct offer to sell to the user (buyer) with the highest bid. In Gupta, the buyers do not make any bids.

Further, applicants submit that one of ordinary skill in the art would not have been motivated to modify Churchill in view of Gupta as suggested by the Examiner. Churchill and Gupta relate to completely different types of auctions. In Churchill, the buyers make the offers. In contrast, the sellers make the offers in Gupta. Thus, one skilled in the art would not have looked to Gupta to modify Churchill to create the claimed invention.

DABNEY et al.
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In view of the foregoing amendments and remarks, withdrawal of the rejections and allowance of this application are earnestly solicited. Should the Examiner have any questions regarding this application, or deem that any formalities need to be addressed prior to allowance, the Examiner is invited to call the undersigned attorney at the phone number below.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Deborah S. Gladstein/
Deborah S. Gladstein
Reg. No. 43,636

DSG:nd
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100